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STEPHEN T. PACHECO

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARriba

LMP

ROBERTA MARTINEZ,

Plaintiff,

-vs-

No. D-117-CV-2013-00050

BOARD OF COUNTY COMMISSIONERS
FOR RIO ARriba COUNTY,

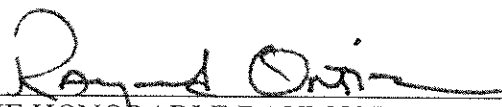
Defendant.

**ORDER ALLOWING SUBSTITUTION OF COUNSEL FOR DEFENDANT BOARD OF
COUNTY COMMISSIONERS FOR RIO ARriba COUNTY**

THIS MATTER having come before the Court on the "*Unopposed Motion for Substitution of Counsel for Defendant Board of County Commissioners for Rio Arriba County*", and the Court being sufficiently advised, finds that such motion is well-taken and, therefore, shall be granted.

IT IS THEREFORE ORDERED that French & Associates P.C. (Robert W. Becker), is hereby authorized to withdraw as counsel for Defendant. Defendant shall henceforth be represented by substitute counsel, Yenson, Allen & Wosick, P.C. (Robert W. Becker).

IT IS SO ORDERED



THE HONORABLE RAYMOND ORTIZ
DISTRICT JUDGE



Respectfully submitted by:

YENSON, ALLEN & WOSICK, P.C.

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ANO

**FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARRIBA**

CASE NO.: D-117-CV-2013-00050

ROBERTA MARTINEZ,
Plaintiff(s),
vs.

**BOARD OF COUNTY COMMISSIONERS
FOR RIO ARRIBA COUNTY,**
Defendant(s).

RULE 16(B) SCHEDULING ORDER
JURY

Pursuant to SCRA 1-016(B), the Court herewith establishes the following schedule governing this case:

1. **MEDIATION/SETTLEMENT CONFERENCE DEADLINE.** The parties shall conduct a mediation or settlement conference on or before **September 30, 2014**. This deadline may not be extended by agreement of counsel and will only be extended by Court Order in exceptional circumstances. Counsel shall complete the discovery necessary for good faith settlement discussions in advance of the mediation or settlement conference. Counsel shall either file a Request for Referral to Settlement Conference for a referral to a qualified settlement facilitator through the Court's Alternative Dispute Resolution (ADR) Program or they may make their own arrangements for a private mediator or settlement facilitator. An information sheet with directions to attorneys and self-represented litigants is attached to this Order. Within five days of the mediation or settlement conference, counsel or the mediator/settlement facilitator shall file a Certificate of Compliance to report on the outcome of the settlement conference. All individuals with final settlement authority shall attend the settlement conference in person.

Unless otherwise agreed to or unless otherwise ordered by the Court, the Settlement

Facilitator's or Mediators's fee shall be paid by the parties in equal shares. The following persons shall attend the settlement conference, either in person or telephonically: each party of record including parties represented by counsel; each counsel of record who will be trying the case; for each party, the person or persons with complete authority to settle the case. Persons who do not reside or maintain a business office in New Mexico may attend the settlement conference telephonically. All other persons shall attend the settlement conference in person unless different arrangements are established by the settlement referee or mediator.

2. **JOINDER OF PARTIES.** Additional parties will not be joined unless otherwise ordered by the Court. If additional parties are joined, such joinder must occur in a timely manner such that the Mediation/Settlement Conference deadline and trial setting are not affected.

3. **AMENDMENT OF PLEADINGS.** Amendments to the Complaint and Answer shall be filed within 60 days of entry of this Order, unless otherwise ordered by the Court.

4. **MOTIONS.** All motions addressed to the pleadings, i.e. **motions brought under SCRA 1-012(B), (D), (E) or (F)** shall be filed within thirty (30)days of entry of this Order, unless otherwise ordered by the Court. **Motions for Summary Judgment pursuant to SCRA 1-056** shall be filed no later than **July 31, 2014**, unless otherwise ordered by the Court. **Motions in limine** shall be filed no later than forty five (45) days prior to the date scheduled for trial.

5. **DISCOVERY.** The time to complete discovery begins with the filing of the Complaint and ends **July 31, 2014**, unless otherwise ordered by the Court. Discovery requests shall be filed in sufficient time to allow response before the close of the discovery period.

6. **WITNESSES.** The parties shall file a list of expert witnesses expected to testify at trial on or before the dates set forth below:

Plaintiff expert witnesses: **January 15, 2014**

Defense expert witnesses: **February 14, 2014**

At the time the expert witnesses are identified, the party presenting the expert witness shall provide to all other parties the following: 1) a current curriculum vitae of the expert; 2) a written summary of the opinions the expert will present at trial; and 3) any written reports that have been prepared by the expert.

The parties shall file a list of all non-expert witnesses expected to testify at trial on or before **February 14, 2014**.

No later than seven days after the last date designated for disclosure of expert and non-expert witnesses, all counsel who are expected to participate at trial shall conduct a telephonic conference for the purpose of scheduling all depositions yet to be scheduled in this matter.

7. **EXHIBITS.** The parties shall file a list of all exhibits expected to be submitted at trial no later than **September 5, 2014**. The parties shall provide a binder with all trial exhibits to the Court on the day of trial.

8. **PRE-TRIAL CONFERENCE.** The pre-trial conference mandated by SCRA 1-016(C) shall be held at **1:30 pm, September 15, 2014**, at the Judge Steve Herrera Judicial Complex, Santa Fe, New Mexico. Trial counsel must attend the pre-trial conference.

9. **PRE-TRIAL ORDER.** Plaintiff(s) counsel shall prepare their portion of the Pre-Trial Order and submit it to opposing counsel no later than **fifteen days prior to the pre-trial conference**. Opposing counsel shall file the Pre-Trial Order **on or before the date of the pre-trial conference**.

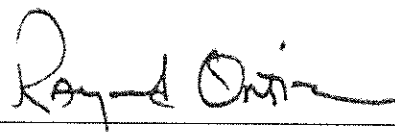
10. **JURY INSTRUCTIONS.** Jury instructions shall be filed and presented to the Court

in three packets. One packet shall consist of those instructions which are stipulated to by both parties. A second packet shall consist of the Plaintiff's additional proposed instructions. The third packet shall consist of the Defendant's additional proposed instructions.

Each jury instruction submitted shall indicate the UJI source for such instruction. In connection with any modification(s) sought from UJI language, counsel shall indicate in bold typeface on each such instruction any and all proposed modification(s) from New Mexico uniform jury instructions. In addition, the legal authority for any proposed modification shall be set forth at the conclusion of each proposed jury instruction.

All proposed jury instructions shall be filed on or before **October 13, 2014**.

11. **TRIAL.** Trial of this matter is set on a trailing docket **October 20, 2014, at 8:30 a.m.** at the Rio Arriba County Courthouse, Tierra Amarilla, New Mexico. At that time, attorneys and parties must appear for case scheduling and jury selection. Since the trial date has been set either by agreement of counsel or by the Court at the Scheduling Conference, the trial date will not be continued unless there are exceptional circumstances. The Court will attempt to resolve scheduling conflicts within the trial docket; however, counsel should arrange to have co-counsel or substitute counsel available to try the case if such conflicts cannot be resolved. If either party wishes to have overnight transcripts, please make prior arrangements with the court reporter, Carmela McAlister at 455-8214.



RAYMOND Z. ORTIZ
DISTRICT JUDGE

CERTIFICATE OF SERVICE

A copy of the foregoing Order was mailed to the parties or counsel at the addresses listed below on the date filed.

AJ Salazar
Salazar Law Office, P.C.

Robert W. Becker
Paula I. Forney

A handwritten signature in black ink, reading "Ramona L. Lara". The signature is written in a cursive style with a large, stylized initial "R".

Ramona Lara, TCAA to the
Honorable Raymond Z. Ortiz

**HOW TO USE THE COURT'S ALTERNATIVE DISPUTE RESOLUTION (ADR) PROGRAM TO REQUEST A REFERRAL TO SETTLEMENT CONFERENCE:
INSTRUCTIONS FOR ATTORNEYS AND SELF-REPRESENTED LITIGANTS**

1. Let the Court know you want a settlement conference. If you were referred to a settlement conference by a judge's scheduling order, you must still follow this procedure.

a. **Obtain the proper forms:** get them from the Self Help Center, the Court Clerk's Office, or from the Alternative Dispute Resolution (ADR) Office: call 455-8146 or email sfedsselfserv@nmcourts.gov. You can also download the forms from the Court's website <http://firstdistrictcourt.com>, "Forms".

If you want the Court to assign a Settlement Facilitator from the Court's list, obtain a Request for Referral to Settlement Conference form. Complete the form. Settlement Facilitators on the Court's list are attorneys who have mediation training and experience.

If you and the other party have agreed on a Settlement Facilitator (who may be, but is not required to be, a person on the Court's list) and merely need a Referral Order, obtain a "Stipulated Request for Referral to Settlement Conference". Complete the form.

Please be sure to make enough copies of the Request for Referral to Settlement Conference for yourself, the judge, the ADR Office, and all the parties. Make two sets of self-addressed, stamped envelopes to provide copies of the Request and Referral Order to all parties or their attorneys.

b. At this point, file the Request in the Court Clerk's office. The Clerk's office will keep the original. Ask the filing clerk to endorse (stamp) each of the copies.

If you can't go to the Courthouse in person, you can file by mail: mail the original and copies to the Court Clerk's Office, First Judicial District Court, P.O. Box 2268, Santa Fe, NM 87504-2268. Be sure to include stamped envelopes, one with your name and address, and one for each other party with their name and address. Include a letter asking the Court Clerk to file your Request, return endorsed copies to you and the other party by mail, and provide a copy to the ADR Office.

c. Take another endorsed copy to the Self Help Center (downstairs next to the Court Clerk's offices), along with one set of the self-addressed, stamped envelopes. You can leave it in the ADR box on the wall to the left of the Clerks' windows if no one is there to receive it from you.

d. **You must also provide copies of the Request you file to all parties.** Use the other set of envelopes to mail the Request to all parties. You must do this yourself; court employees will not mail copies of the Request to the other parties for you.

2. The ADR Office will assign a settlement facilitator, and will generate a Referral Order,

which will be given to the judge's assistant along with the envelopes. An Order of Referral to Settlement Conference is a court order and all of its terms MUST be obeyed by every person to whom it applies. If for any reason you do not want to or cannot comply with any provision of the Order, you must ask and receive the court's permission not to comply. If you do not, you may be found to be in contempt of court. Do not ignore any part of the referral order.

3. The judge's assistant will get the Order signed by the judge and entered in the court file, then mail it to the Settlement Facilitator and all parties using the envelopes provided by the person who filed the Request.

4. Each party must contact the Settlement Facilitator within 10 days after filing of the Order to schedule a Settlement Conference.

5. Each party must provide the information described on the Settlement Conference Information Sheet to the Settlement Facilitator no later than 5 business days before the date selected for the Settlement Conference. Do not return the Settlement Conference Information Sheet to the ADR Office. Fill it out completely and be as specific as you can about the issue. The more information the Settlement Facilitator has, the better he or she will be able to help you.

6. All the participants - parties and their attorneys - in the Settlement Conference except the Settlement Facilitator must complete a short, anonymous, confidential, evaluation (either on-line or by fax) of the Settlement Facilitator's performance within 5 business days after the Settlement Conference concludes. The Settlement Facilitator will receive notice by email that the evaluation has been completed. If you do not complete the evaluation, the Settlement Facilitator will note that fact on the Certificate of Compliance (see 7 below), and your case may not be closed until you complete the evaluation.

7. Within 5 business days after the settlement conference, the Settlement Facilitator will file a Certificate of Compliance with the Court Clerk.

8. If any participant at any time does not comply with any term of the Order, the other participants should remind him/her of the terms of the Order. If non-compliance continues, any other participant may file a Notice of Non-Compliance using the court's form. The judge may take any appropriate action in response to the Notice of Non-Compliance.

9. The Settlement Facilitator or any party may file a Request for Replacement Settlement Facilitator using the proper form. No explanation is required for requesting that the Settlement Facilitator be replaced. If you use this form, the ADR Office will assign a replacement Settlement Facilitator from the Court's list. If you and the other parties agree on a replacement Settlement Facilitator, use the Stipulated Request for Replacement Settlement Facilitator. The rest of the procedures are the same as for a Request for Referral to Settlement Conference.

10. If your case is referred to settlement conference and you do not feel that a settlement conference will be helpful in resolving it, you may ask the Court's permission not to have a

settlement conference by filing a Motion for Excusal from Settlement Conference. Remember, just because you ask for an excusal doesn't mean the judge will grant your request. You must continue to comply with the Referral Order until it is modified by another court Order.

11. Settlement Facilitators on the Court's list are paid \$500.00 for the first 4 hours, which may include up to an hour of preparation time. If the case does not settle during that time and the parties agree to continue, the rate is \$150.00 per hour for the next 4 hours. If the case does not settle within that time, and the parties agree to continue the settlement conference, the parties and the Settlement Facilitator shall agree in writing upon an hourly rate to be paid to the Settlement Facilitator. Usually, each party will be responsible for payment of one-half of the Settlement Facilitator's fee. Payment of the first 4 hours must be made prior to the beginning of the settlement conference, unless other arrangements have been made in writing with the Settlement Facilitator.

If you use a settlement facilitator who is not on the Court's list, the Court's fee schedule will not apply.

12. If you feel you cannot afford the cost of a settlement facilitator, you may file a Motion for Free or Reduced-Cost Settlement Facilitation. Follow the same filing procedures described above for filing a Request for Referral to Settlement Conference.

**STATE OF NEW MEXICO
COUNTY OF RIO ARriba
FIRST JUDICIAL DISTRICT COURT**

Case No.: D-0117-CV-2013-00050

**ROBERTA MARTINEZ,
Plaintiff,**

vs.

**BOARD OF COUNTY COMMISSIONERS FOR RIO
ARRIBA COUNTY,
Defendant.**

ORDER OF REFERRAL TO SETTLEMENT CONFERENCE

THIS MATTER having come before this Court upon a Request for Referral to Settlement Conference, and the Court being fully advised in the premises,

IT IS THEREFORE ORDERED that this case is referred to Settlement Conference. A party seeking any relief from or modification of this order must file a motion for relief or modification in accordance with NMRA 1-007.1 and LR1-306. Some motion forms are available at the court's Self Help Center and on its website, www.firstdistrictcourt.com, FORMS.

IT IS FURTHER ORDERED THAT:

1. The assigned Settlement Facilitator is Bryan Biedscheid. If the Settlement Facilitator or any party objects to the appointment of the named Settlement Facilitator, that person may file a Request for Replacement Settlement Facilitator within 10 days of the date of this Order.
2. The Settlement Conference shall be scheduled at the earliest possible date, but in no event later than 60 days from entry of this Order. Each party shall contact the Settlement Facilitator within 10 business days of entry of this Order to schedule a Settlement Conference. The Settlement Facilitator has the final authority to set the date for the Settlement Conference.
3. If the parties resolve their issues prior to the scheduled Settlement Conference, they shall notify the Settlement Facilitator in writing at the earliest time possible but in no event later

than the scheduled date of the Settlement Conference.

4. The following persons shall attend the Settlement Conference and remain present, either in person or by telephone, during the entire conference: each party of record including parties represented by counsel; each counsel of record who will be trying the case; for each party, the person or persons with complete authority to settle the case including but not limited to insurance company representatives and guardians ad litem. Persons who do not reside or maintain a business presence in New Mexico may attend the Settlement Conference by telephone. All other persons shall attend the Settlement Conference in person.

5. The Settlement Facilitator shall be paid \$500.00 plus gross receipts tax for a Settlement Conference of up to 4 hours.

(a) Each party shall pay an equal share of the Settlement Facilitator's fee. Payment for the first 4 hours shall be made before the Settlement Conference begins. Each party shall bring its share of the fee for the first 4 hours to the Settlement Conference in cash, money order, or certified check, unless other arrangements have been made with the Settlement Facilitator prior to the date of the Settlement Conference.

(b) A party that feels it cannot afford its share of the fee may file a Motion for Free or Reduced-Fee Settlement Facilitation within 15 days of the date of this Order. If the Motion is granted, that party will pay a reduced share of the total fee.

(c) The Settlement Facilitator may spend up to one hour preparing for the Settlement Conference. This may include time spent in telephone conferences relating to the Settlement Conference, as well as time spent reviewing documents provided by either party. The Settlement Facilitator shall inform the parties at the beginning of the Settlement Conference how much time was spent in preparation and how much time remains of the initial 4 hours so the parties know how much of the initial 4 hours remain for the Settlement

Conference. If the Settlement Facilitator believes s/he needs more time for preparation, s/he must request and obtain permission from all parties before spending any additional time to prepare.

(d) If the case does not settle in the first 4 hours, and the parties agree to continue, the Settlement Facilitator shall be paid at the rate of \$150.00 per hour for the next 4 hours.

(e) If the case does not settle within the additional 4 hours, and the parties agree to continue, the parties and the Settlement Facilitator shall agree in writing upon an hourly rate to be paid to the Settlement Facilitator.

6. Immediately following the Settlement Conference all participants shall complete evaluations of the Settlement Facilitator on the form enclosed with this Order, and shall provide them to Court Constituent Services according to the instructions on the evaluation form.

7. Within 5 business days after the Settlement Conference, the Settlement Facilitator shall file a Certificate of Compliance. If any party does not comply with any of the terms of this Order, the Settlement Facilitator or any party shall file a Notice of Non-Compliance stating which party did not comply with which terms of the Order.

8. Copies of all pleadings regarding Settlement Conferences shall be provided to the judge, the Settlement Facilitator, and to Court Constituent Services.

9. If a party needs an interpreter in order to participate in the settlement conference, and no Interpreter Form has been filed, the party who needs the interpreter shall file an Interpreter Form and provide a copy to Court Constituent Services and to the Court Interpreter.

Interpreter Forms are available in the Court Clerk's Office, on the Court's website, www.firstdistrictcourt.com, and at the Court's Self Help Center. If a party needs an interpreter to participate in the settlement conference and doesn't request one beforehand, the settlement facilitator will reschedule the conference.

THIS IS A COURT ORDER. It must be followed, or you may be found in contempt of court. A party seeking any relief from or modification of this order must file a motion for relief or modification in accordance with NMRA 1-007.1 and LR1-306.


DISTRICT COURT JUDGE

XC:

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FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARriba

ROBERTA MARTINEZ,

Plaintiff,

vs.

No. D-117-CV-2013-00050

BOARD OF COUNTY COMMISSIONERS
FOR RIO ARriba COUNTY,

Defendant.

ORDER CONTINUING TRIAL DATE

THIS MATTER, having come before the Court upon the stipulation of the Parties, the Court being fully advised in the premises, hereby GRANTS the Motion to Continue the October 20, 2014 Trial date.

The court will set this matter for a scheduling conference.

IT IS SO ORDERED.



THE HONORABLE RAYMOND Z. ORTIZ
District Court Judge

Submitted by:

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Approved as to form:

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/s/ Robert W. Becker

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